



State & Federal Contractors Water Agency

1121 L Street, Suite 1045, Sacramento, CA 95814

July 28, 2010

Mr. Philip Isenberg, Chair
Delta Stewardship Council
650 Capitol Mall, Fifth Floor
Sacramento, CA 95814

RE: SWRCB Flow Criteria

The State Water Resources Control Board (Board) is likely to adopt its flow criteria report on August 3 and will be submitting it to the Delta Stewardship Council (Council) for its information. We urge the Council to pay close attention to the overall context the Board provides its report, as well as the limitations of the information and lack of balancing considerations and full impact analysis. Without commenting on the flow recommendations themselves at this time, the context in which the Board places these recommendations, developed per the Legislature's direction to solely consider the protection of public trust resources, is key.

1. The Board states that these recommendations are for the Delta as it exists today, not as it could be if all stressors – pollutants, excess nutrients, introduced species, predation by non-natives, massive habitat loss and current water conveyance – were directly addressed to make the system a more hospitable habitat for important fisheries and to reduce the myopic reliance on more flows to mitigate the impacts of these stressors. The implication, if not the conclusion, is that as we pursue comprehensive solutions, the overall magnitude of today's flows may be adequate to serve public trust resources. Moreover, it is important to acknowledge that the Bay Delta Conservation Plan (BDCP) is a central part of a multi-purpose, comprehensive approach to system restoration and infrastructure investment that the Board indicates is necessary to achieve significant improvements for public trust resources while supporting improved water supply reliability.
2. The much quoted statement "Restoring the environmental variability in the Delta is fundamentally inconsistent with continuing to move large volumes of water *through* the Delta for export" (emphasis added) clearly leaves open the better option that with improved conveyance that resolves reverse flow and entrainment issues, water supply reliability and sufficiency can be restored concurrent with returning environmental (flow) variability to the Delta. For this reason, as also found by both the Legislature and Delta Vision, improved conveyance remains a key component of fixing the Delta.

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3. The Report's recommendations were developed narrowly looking at only outflows thought necessary to protect a few select aquatic species as a stand in for "public trust resources." No feasibility or impact analysis was done and none of the legally required balancing of competing beneficial uses of water was performed or judgment made on serving the overall public interest. What limited analysis done in the Draft report's appendix B shows devastating water supply impacts, serious impacts to reservoir cold water pools that salmon depend upon, and yet it is noted despite all that, the criteria cannot be consistently met. This starkly illustrates the infeasibility of a flow-centric approach to Delta restoration.

It is also worth noting that despite defining flows the Board felt could protect public trust resources there was no discussion on the likelihood that such measures, especially without considering the myriad of other factors, would accomplish their underlying biological objectives. To paraphrase the report's language, commitment of flows would be an experiment whose outcome is speculative. However, the massive negative impacts to the State's economy from doing so are not.

Some may try to take the proposed flows out of the broader context of this report as the definition of success for both BDCP and the Delta Plan, and the criterion for which the ecosystem portion of the coequal goals should be measured. Accepting that would be a recipe for failure and continued gridlock. For the Delta Plan to be effective in the real world it must look at all the issues and needs relative to the Delta in defining a plan that seeks to achieve the coequal goals. The BDCP will go a long way in meeting that challenge, which is why the Legislature directed its inclusion in the Delta Plan upon satisfying specified criteria in the Delta Reform Act.

While it is tempting to posit, as some have done, that with more aggressive conservation and recycling the Board's flow criteria or something like them is achievable, this is fallacy. It will take an intense effort simply to meet the State's overall 20% per capita use reduction goal, which, when you consider the context of population growth, will leave the state about where it was in the 90's with respect to total water use. As such, flow criteria on the order suggested in the report are not reasonably achievable without devastating California's economic well-being and quality of life. Moreover, even if more dramatic conservation and recycling could somewhat mitigate the economic and social impacts, the effects of the dedication of the proposed flows on other competing public trust resources would not be similarly mitigated.

Fortunately, we believe the coequal goals can be achieved, in time, with appropriate investments in infrastructure and habitat, improved scientific understanding, "other stressor" reduction, and better water management protocols that improve hydrodynamic variability in the Delta while capturing water supplies during high flow periods and reducing impacts during low flows, all within a robust adaptive management context. The critical path for today is to work on the things that we can make progress on or achieve now: including reducing the effects of "other stressors" in the system, and focusing on the means and timing of moving water in a more ecologically sound manner, both in the near term with existing infrastructure and over the long run with improved conveyance.

At the end of the day, California will need a recovered, vibrant economy to pay for all Delta related improvements. Massive losses of supplies redirected to outflow in a misguided attempt to address a multi-faceted problem by focusing on only one aspect of it would only lead to failure on both ends of the coequal goal.

We look forward to working with you toward a balanced, comprehensive and implementable Delta Plan.

Sincerely

A handwritten signature in black ink, appearing to read "Byron Buck", with a long, sweeping horizontal line extending from the end of the name.

Byron M. Buck
Executive Director